



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/000,254      | 11/15/2001  | Thomas E. Hansen     | 154.008US1          | 9048             |

7590

07/19/2004

Mark A. Litman & Associates, P.A.  
York Business Center  
Suite 205  
3209 West 76th St.  
Edina, MN 55435

EXAMINER

MAYES, MELVIN C

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/000,254

Applicant(s)

HANSEN ET AL.

Examiner

Melvin Curtis Mayes

Art Unit

1734

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 02 July 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-4, 6-10 and 18-20.Claim(s) withdrawn from consideration: 11-17.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

Melvin Curtis Mayes  
Primary Examiner  
Art Unit: 1734

## DETAILED ACTION

### *Response to Amendment*

(1)

The Declaration under 37 CFR 1.132 filed July 2, 2004 is insufficient to overcome the rejection of claims 1-10 and 18-20 based upon the references applied under 35 USC 103 as set forth in the last Office action because:

It refer(s) only to the system (pressure sensitive labels on thin liner) described in the above referenced application and not to the individual claims of the application. Thus, there is no showing that the objective evidence of nonobviousness is commensurate in scope with the claims. See MPEP § 716.

Specifically, the Declaration refers to pressure sensitive label on liners as thin or thinner than 0.5 mils (0.0127 mm) while the claims are directed to associating a precut source of linerless labels to a liner sheet of less than 0.032 mm (1.2 mils) thickness. There is no nexus between the claimed invention of associating linerless label with liner of less than 1.2 mils thickness and the evidence of using a liner of 0.5 mils or less in thickness. The evidence with respect to liner thickness is not commensurate with the claimed range of liner thickness.

(2)

Motivation and reason for using a liner with linerless label is disclosed by WO 00/07883 which discloses the claimed steps of providing prerolled linerless label sheet, partially severing individual labels on the continuous sheet, applying the continuous sheet with precut labels to a **temporary, reusable support liner** and associating the source of precut linerless labels on the

Art Unit: 1734

roll of reusable support liner to a lined label applicator so that a composite of reusable, temporary liner sheet and pre-cut linerless labels is fed to the lined applicator where lined label is normally directed. Placing linerless labels on liner for use on conventional liner application equipment is clearly disclosed, and the rejection is not flawed.

With respect to liner thickness, the newly applied art is Evans 3,565,750 and the PFFC article "Controlling costs challenge label stock, liner suppliers," not the AWA article as argued. The references clearly suggest the use of liners as thin as 1 mil (0.0254 mm) with label stock to reduce costs and satisfy environmental need for source reduction while maintaining or improving performance and production levels. The use of liners as thin as 1 mil with label stock is clearly known and suggested and is suggested for the same reasons as argued by Applicant, those being cost-savings and pollution reduction.

Microbridging label material is taught or suggested by WO 00/30963 and Koehlinger et al. Applicant does not address these references with respect to microbridging.

As mentioned, pre-cutting linerless label stock before associating with liner is disclosed by WO 00/07883. WO 00/07883 (ALS) does not cut linerless label stock while on a temporary carrier as argued.

Attorney's statements with respect to cost-cutting success are not evidence and must be supported by an appropriate affidavit or declaration. Nevertheless, the cost-saving benefits of thin liner is suggested by the PFFC article.

The Examiner does not see in the WO references where combined layers are used as argued. The Examiner does not understand how thickness of the label stock has any bearing on the use of thin liner.

Claim 18 is an apparatus claim, not a method claim as stated. Applicant is referring to Claim 14, which has been non-elected. These arguments have not been considered.

Nedblake is pertinent as to its teaching of the use of liners as thin as 0.019 mm for cost savings, which is pertinent regardless of the particular method used by Nedblake for making labels. The cost-savings teachings suggest to use even thinner liner.

The submitted declaration of Raymond Pace only provides evidence of no known use of liners of thickness or 0.5 mil (0.0127 mm) or less with pressure-sensitive labels. The claims are not limited to liners of thickness 0.5 mil or less but are only limited to liners of thickness of 0.032 mm (1.2 mils) or less. Liners in this range are disclosed by the references as cited.

(3)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 571-272-1234. The examiner can normally be reached on Mon-Fri 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melvin Curtis Mayes  
Primary Examiner  
Art Unit 1734

MCM  
July 16, 2004